

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 02 MAR 2001

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Applicant's or agent's file reference 8511-025-228	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/410)	
International application No. PCT/US99/08079	International filing date (day/month/year) 13 APRIL 1999	Priority date (day/month/year) NONE
International Patent Classification (IPC) or national classification and IPC IPC(7): G01N 33/53; A61K 38/00; A01N 37/18 and US Cl.: 435/7.23; 530/324; 514/2, 12		
Applicant NORTHWEST BIOTHERAPEUTICS, INC.		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets.
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority. (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
These annexes consist of a total of 0 sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of report with regard to novelty, inventive step or industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 08 NOVEMBER 2000	Date of completion of this report 04 FEBRUARY 2001
Name and mailing address of the IPEA/US Commissioner of Patents and Trademarks Box PCT Washington, D.C. 20231	Authorized officer <i>Jaya Brudgers</i> Jennifer Hunt
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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/US99/08079

I. Basis of the report**1. With regard to the elements of the international application:***

- ☒ the international application as originally filed
- ☒ the description:
pages 1-52 , as originally filed
pages NONE , filed with the demand
pages NONE , filed with the letter of _____
- ☒ the claims:
pages 53-56 , as originally filed
pages NONE , as amended (together with any statement) under Article 19
pages NONE , filed with the demand
pages NONE , filed with the letter of _____
- ☒ the drawings:
pages 1-15 , as originally filed
pages NONE , filed with the demand
pages NONE , filed with the letter of _____
- ☒ the sequence listing part of the description:
pages NONE , as originally filed
pages NONE , filed with the demand
pages NONE , filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☒ contained in the international application in printed form.
- ☒ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☒ The amendments have resulted in the cancellation of:

- ☒ the description, pages NONE
- ☒ the claims, Nos. NONE
- ☒ the drawings, sheets/fig NONE

5. ☐ This report has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

** Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17).*

***Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.*

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☒ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 88.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
- ☒ not complied with for the following reasons:

This application contains the following inventions or groups of inventions which are not so linked as to form a single inventive concept under PCT Rule 13.1. In order for all inventions to be searched, the appropriate additional search fees must be paid.

Group I, claim(s) 1-12 and 23, drawn to a method of detection of metastatic potential.

Group II, claim(s) 13-22, and 24-29 drawn to a product, flt-4, a process of making and process of using to treat, inhibit, or prevent secondary metastasis.

The inventions listed as Groups I and II do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

The inventions in group I are drawn to a method of detecting the expression of flt-4 and subsequent determination of the metastatic potential of a cell.

The inventions in group II are drawn to inhibition of flt-4 for the purpose of treating, inhibiting, or preventing secondary metastasis.

The detection of flt-4 and the inhibition of flt-4 are distinctly different processes, having different reactants, method steps, and outcomes and therefore do not share a specific technical feature.

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☒ all parts.
- ☐ the parts relating to claims Nos. .

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. statement

Novelty (N)	Claims <u>1-29</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-29</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-29</u>	YES
	Claims <u>NONE</u>	NO

2. citations and explanations (Rule 70.7)

Claims 1-29 meet the criteria set out in PCT Article 33(2)-(4), because the prior art does not teach or fairly suggest the correlation between flt-4 detection and the metastatic potential or occupance of metastasis in prostatic carcinoma, or the corresponding treatments, compositions, or screening methods.

_____ NEW CITATIONS _____
NONE